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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|-------------------------|---|-------------------------------|
| JOSEPH FAHEY, |) | |
| |) | |
| Plaintiff, |) | Case No. C06-06554 CRB |
| vs. |) | |
| |) | STIPULATION TO DE NOVO |
| WESTERN CONFERENCE OF |) | STANDARD OF REVIEW |
| TEAMSTERS PENSION PLAN, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

WHEREAS at the January 26, 2007 Case Management Conference the Court agreed set a date by which Plaintiff would file a motion for summary adjudication to determine the standard of review; and

WHEREAS the parties, through their attorneys of record, have agreed that the appropriate judicial standard of review of this matter will be *de novo*, thus obviating the need for a motion

for summary adjudication to determine the issue, and;

WHEREAS the parties believe that discovery and the submission of additional evidence may be beneficial and necessary to the Court's exercise of informed and independent judgment, and therefore appropriate under *Mongeluzo v. Baxter Travenol Long Term Disability Ben. Plan*, 46 F.3d 938, 943 (9th Cir. 1995);

NOW, THEREFORE, the parties, by and through their attorneys of record, hereby stipulate as follows:

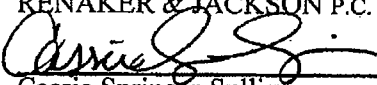
1. The appropriate judicial standard of review is *de novo*;
2. Discovery is allowable to the extent permitted under the standard set forth in *Mongeluzo*;
3. Nothing in this stipulation shall prohibit either party from objecting to discovery or seeking a protective order against discovery under any of the grounds set forth in the Federal Rules;
5. The further case management conference, set for April 6, 2007 at 8:30, remains on calendar, at which point the Court will set a discovery schedule.

Dated: 2/28, 2007

Respectfully submitted,

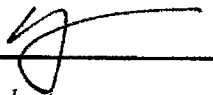
LEWIS, FEINBERG, LEE,
RENAKER & JACKSON P.C.

By:


Cassie Springer-Sullivan
Attorneys for Plaintiff

Dated: 3/1, 2007

By:

TRUCKER HUSS

Robert F. Schwartz
Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: March 6, 2007

Hon. Charles R. Breyer
United States District

STIPULATION RE STANDARD OF REVIEW [CASE NO. C06-06554 CRB]
#836651

